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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,375	06/22/2001	Shin-Ichi Kumamoto	TPP 30565A	7004
7590	01/28/2004		EXAMINER	
Thomas P. Pavelko, Esquire STEVENS, DAVIS, MILLER & MOSHER, L.L.P. Suite 850 1615 L Street, N.W. Washington, DC 20036			PASTERCZYK, JAMES W	
			ART UNIT	PAPER NUMBER
			1755	
DATE MAILED: 01/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

A

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/886,375	KUMAMOTO ET AL.	
	Examiner J. Pasterczyk	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 07 November 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 30-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 30-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/260540.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### **Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11/7/2003</u> . | 6) <input type="checkbox"/> Other: _____                                     |

Art Unit: 1755

1. This Office action is in response to the amendment and IDS filed 11/7/03 and refers to the first Office action mailed 8/8/03.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 30-34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura I as cited in the previous Office action.

Matsuura I discloses the invention substantially as claimed (abstract; col. 3, l. 25-30, l. 63; col. 4, l. 14; col. 6, l. 33-37, l. 55-68; col. 8, l. 45-52; examples, especially example 1).

Matsuura I lacks preference for hydrocarbyl groups in the titanium component having 10-20 carbon atoms, as well as that the magnesium compound be an alkyl.

However, Matsuura I clearly teaches that the number of carbon atoms in the titanium compound may overlap with the presently-claimed range, and that the magnesium compound, although not an alkyl in the specific examples, may indeed be an alkyl compound.

It would have been obvious to one of ordinary skill in the arts to apply that skill to the disclosure of Matsuura I with a reasonable expectation of obtaining a highly-useful method of making a catalyst component with the expected benefit of the catalyst showing enhanced stereoregularity in the polyolefin produced.

4. Claims 38-42 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura I as applied to claims 30-34 above, and further in view of Matsuura II as cited in the previous Office action.

The disclosure of Matsuura I has been discussed above.

Matsuura I lacks disclosure of the addition of a titanium halide compound in its process.

However, Matsuura II teaches that addition of such a compound is conventional in the art of Ziegler-Natta catalysts (col. 3, l. 37; examples).

It would have been obvious to one of ordinary skill in the art to apply the teaching of Matsuura II to the disclosure of Matsuura I with a reasonable expectation of obtaining a highly-useful method of making a solid catalyst component with the expected benefit of the resulting catalyst affording a polymer with a controlled particle size.

5. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura I as applied to claims 30-34 and 37 above, and further in view of Sasaki et al., USP 4,900,706 (hereafter referred to as Sasaki).

The disclosure of Matsuura I has been discussed above.

Matsuura I lacks disclosure of use of a porous organic support in the preparation of a catalyst component.

However, Sasaki teaches that such a component is conventionally used in the preparation of such catalysts (abstract; figure 1; col. 8, l. 14-54).

It would have been obvious to one of ordinary skill in the art to apply the teaching of Sasaki to the disclosure of Matsuura I with a reasonable expectation of obtaining a highly-useful method of making a catalyst component with the expected benefit of the component being usable in a slurry or gas phase polymerization process.

6. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura I and Matsuura II as applied to claims 38-42 and 45 above, and further in view of Sasaki as cited above.

The disclosures of Matsuura I and Matsuura II have been discussed above.

Matsuura I and II lack disclosure of use of a porous organic support in the preparation of a catalyst component.

However, Sasaki teaches that such a component is conventionally used in the preparation of such catalysts (abstract; figure 1; col. 8, l. 14-54).

It would have been obvious to one of ordinary skill in the art to apply the teaching of Sasaki to the disclosure of Matsuura I with a reasonable expectation of obtaining a highly-useful method of making a catalyst component with the expected benefit of the component being usable in a slurry or gas phase polymerization process.

7. Applicant's arguments filed 11/7/03 have been fully considered but they are not persuasive.

Applicants' primary argument is that the prior art does not disclose that the magnesium compound used to make the titanium/magnesium/hydrocarbyloxy component (C) may be a magnesium alkyl. However, as pointed out above, Matsuura I clearly teaches that feature, even though it is not explicitly used in a working example.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached at 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



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1/22/04



Mark L. Bell  
Supervisory Patent Examiner  
Technology Center 1700